

and impose an impossible administrative burden by requiring criminal investigations to be continuously re-investigated.

(4) *Subsection (e)(1)*. In the course of criminal or civil investigations, cases, or matters, the Civil Division may obtain information concerning the actual or potential violation of laws which are not strictly within its statutory authority. In the interest of effective law enforcement, it is necessary to retain such information since it may establish patterns of criminal activity or avoidance of other civil obligations and provide leads for Federal and other law enforcement agencies.

(5) *Subsection (e)(5)*. In compiling information for criminal law enforcement purposes, the accuracy, completeness, timeliness and relevancy of the information obtained cannot always be immediately determined. As new details of an investigation come to light, seemingly irrelevant or untimely information may acquire new significance and the accuracy of such information can often only be determined in a court of law. Compliance with this requirement would therefore restrict the ability of government attorneys in exercising their judgment in developing information necessary for effective law enforcement.

(e) The following system of records is exempt pursuant to 5 U.S.C. 552a (j)(2) and (k)(2) from subsection (d):

Congressional and Citizen Correspondence File, JUSTICE/CIV-007.

This exemption applies only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C 552a (j)(2) and (k)(2).

(f) Only that portion of the Congressional and Citizen Correspondence File maintained by the Communications Office which consists of criminal or civil investigatory information is exempted for the reasons set forth from the following subsection:

(1) *Subsection (d)*. Disclosure of investigatory information would jeopardize the integrity of the investigative process, disclose the identity of individuals who furnished information to the government under an express or implied promise that their identities would be held in confidence, and result in an un-

warranted invasion of the privacy of others. Amendment of the records would interfere with ongoing criminal law enforcement proceedings and impose an impossible administrative burden by requiring criminal investigations to be continuously reinvestigated.

[Order No. 27-88, 54 FR 113, Jan. 4, 1989]

§ 16.90 Exemption of Civil Rights Division Systems.

(a) The following system of records is exempted from subsections (c)(3) and (4); (d)(1), (2), (3) and (4); (e)(1), (2), (3), (5), and (8); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k): Central Civil Rights Division Index File and Associated Records (JUSTICE/CRT-001). These exemptions apply only to the extent that information in a record is subject to exemption pursuant to 5 U.S.C. 552a (j)(2), (k)(1) and (k)(2).

(b) Exemptions from the particular subsections are justified for the following reasons:

(1) *Subsection (c)(3)*. To provide the subject of a criminal, civil, or administrative matter or case under investigation with an accounting of disclosures of records concerning him or her could inform that individual of the existence, nature, or scope of an actual or potential criminal or civil violation to gain valuable information concerning the nature and scope of the investigation, to determine whether he or she is the subject of the investigation, and seriously impede law enforcement efforts by permitting the record subject and other persons to whom he or she might disclose the records to avoid criminal penalties, civil remedies, or administrative measures.

(2) *Subsection (c)(4)*. This subsection is inapplicable to the extent that an exemption is being claimed for subsection (d).

(3) *Subsection (d)(1)*. Disclosure of investigatory information could interfere with the investigation, reveal the identity of confidential sources, and result in an unwarranted invasion of the privacy of others. Disclosure of classified national security information would cause damage to the national security of the United States. In addition, these records may be subject to protective

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orders entered by federal courts to protect their confidentiality. Further, many of the records contained in this system are copies of documents which are the property of state agencies and were obtained under express or implied promises to strictly protect their confidentiality.

(4) *Subsection (d)(2)*. Amendment of the records could interfere with ongoing criminal or civil law enforcement proceedings and impose an impossible administrative burden by requiring investigations to be continuously re-investigated.

(5) *Subsection (d)(3) and (4)*. These subsections are inapplicable to the extent exemption is claimed from (d)(1) and (2).

(6) *Subsection (e)(1)*. It is often impossible to determine in advance if investigatory records contained in this system are accurate, relevant, timely and complete, but, in the interests of effective law enforcement, it is necessary to retain this information to aid in establishing patterns of activity and provide investigative leads.

(7) *Subsection (e)(2)*. To collect information from the subject individual could serve notice that he or she is the subject of a criminal investigation and thereby present a serious impediment to such investigation.

(8) *Subsection (e)(3)*. To inform individuals as required by this subsection could reveal the existence of a criminal or civil investigation and compromise investigative efforts.

(9) *Subsection (e)(5)*. It is often impossible to determine in advance if investigatory records contained in this system are accurate, relevant, timely and complete, but, in the interests of effective law enforcement, it is necessary to retain this information to aid in establishing patterns of activity and provide investigative leads.

(10) *Subsection (e)(8)*. To serve notice could give persons sufficient warning to evade investigative efforts.

(11) *Subsection (g)*. This subsection is inapplicable to the extent that the system is exempt from other specific subsections of the Privacy Act.

(c) The following system of records is exempted from subsections (d)(1), (2), (3) and (4) of the Privacy Act pursuant to 5 U.S.C. 552a (k): "Files on Employ-

ment Civil Rights Matters Referred by the Equal Employment Opportunity Commission (JUSTICE/CRT-007)." These exemptions apply only to the extent that information in a record is subject to exemption pursuant to 5 U.S.C. 552a (k)(2).

(d) Exemptions from the particular subsections are justified for the following reasons:

(1) *Subsection (d)(1)*. Disclosure of investigatory information could interfere with the investigation, reveal the identity of confidential sources, and result in an unwarranted invasion of the privacy of others. In addition, these records may be subject to protective orders entered by federal courts to protect their confidentiality. Further, many of the records contained in this system are copies of documents which are the property of state agencies and were obtained under express or implied promises to strictly protect their confidentiality.

(2) *Subsection (d)(2)*. Amendment of the records could interfere with ongoing criminal or civil law enforcement proceedings and impose an impossible administrative burden by requiring investigations to be continuously re-investigated.

(3) *Subsection (d)(1), (2), (3) and (4)*. This system contains investigatory material compiled by the Equal Opportunity Commission pursuant to its authority under 42 U.S.C. 2000e-8. Titles 42 U.S.C. 2000e-5(b), 42 U.S.C. 2000e-8(e), and 44 U.S.C. 3508 make it unlawful to make public in any manner whatsoever any information obtained by the Commission pursuant to the authority.

(4) *Subsection (d)(3) and (4)*. These subsections are inapplicable to the extent exemption is claimed from (d)(1) and (2).

[Order No. 019-2003, 68 FR 61622, Oct. 29, 2003]

§ 16.91 Exemption of Criminal Division Systems—limited access, as indicated.

(a) The following systems of records are exempted pursuant to the provisions of 5 U.S.C. 552a(j)(2) from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G), (H) and (I), (e) (5) and (8), (f) and (g) of 5 U.S.C. 552a; in addition, the following systems of records